

# JAIPUR MINERAL DEVELOPMENT SYNDICATE, JAIPUR v. THE COMMISSIONER OF INCOME-TAX, NEW DELHI

Civil Appeal No. 74 of 1972; originating High Court reference: Income Tax Reference No. 14 of 1970

[1977] 2 SCR 460 | 1976-12-16

**A High Court that returned an income-tax reference unanswered because of non-appearance can recall that order where sufficient cause and due diligence are shown and no statute prohibits recall. The Supreme Court restored this reference for a decision on its merits.**

2-judge bench | H. R. Khanna, J. | V. R. Krishna Iyer, J.

## Recall restores the hearing

This 1922 Act reference ruling requires sufficient cause, due diligence and absence of a statutory bar. It neither decides the underlying tax merits nor decides whether the original reference had to be answered despite default; its procedural reasoning cannot automatically enlarge relief available under later reference or appeal provisions.

Operative context: Indian Income-tax Act, 1922; historical sections 66(1).

## 01 FACTS OF THE CASE

The soapstone business obtained a reference under section 66(1) of the 1922 Act on two tax questions concerning sales and the attribution of profits. Its clerk received the High Court notice on 9 May 1970 but misplaced it. Paper-books were not filed and nobody appeared for the assessee on 26 August 1970, so the Rajasthan High Court declined to answer the reference.

The notice was found on 21 September and the assessee applied on 24 September to file the paper-books and obtain a rehearing. On 22 February 1971 the High Court refused, considering itself functus officio after its earlier order.

Source: [SCR 460 G-461 H](#)

## 02 DISCUSSION BY THE HON'BLE COURT

The Court rejected the view that returning the reference necessarily exhausted the High Court's power. Inherent procedural power could recall an order made in a party's absence and permit the reference to be answered, provided there was sufficient cause, due diligence and no express or implied statutory prohibition. Such power could not override an express provision of law.

The Court expressly left open whether the High Court had to answer the reference at the original hearing despite non-appearance. It also did not decide the referred questions about sales or profits. It rejected the contrary view in *Roop Narain Ramchandra* and found the assessee's explanation sufficient and its restoration application diligent.

Source: [SCR 462 C-463 D; mandatory-answer question left open at 462 C-D](#)

## 03 JUDICIAL DECISION

The Court allowed the appeal, set aside the High Court order and remanded the case so that the two referred questions could be answered on their merits. The independently decided point was the availability and proper exercise of recall power in the reference proceeding.

Source: [SCR 463 D-E](#)

## 04 OUTCOME / IN WHOSE FAVOUR

Assessee's appeal allowed; High Court order set aside; reference remanded for answers on merits. Result: Assessee on procedural restoration. Costs: No order as to costs. Scope: Underlying sales and profit-attribution questions remain for the High Court.

Source: [SCR 463 D-E](#)

## 05 AKHB REVIEW POINT

Support a recall application with a dated account of receipt of notice, the cause of default, discovery and prompt remedial action. Explain why restoring the hearing falls within the court's existing jurisdiction and identify any statutory restriction. Separate that request from a fresh merits challenge or a request for relief outside the reference jurisdiction.

Source: [SCR 461 D-H; 462 E-463 E](#)

## SOURCE & VERIFICATION

### Original reported Supreme Court judgment

4-page retained public-mirror SCR report. The complete report was read as text and page images. Fresh remote authentication as a signed original is not claimed.

### Open cited source rendition

The report is [1977] 2 SCR 460, but the judgment date is 16 December 1976. The reporter's appellate parenthesis describes the 26 August 1970 order returning the reference; the judicial account at SCR 461 G-H identifies the 22 February 1971 recall refusal as the order appealed. The quoted tax questions at SCR 461 retain printing anomalies and are not independent holdings.

No assessment year identified in the four-page judgment.

## STATUTORY SCOPE

Indian Income-tax Act, 1922, section 66(1).

Section 256 provided the later reference mechanism; its checked text limits references to Tribunal orders before 1 October 1998. Section 260A provides an appeal on a substantial question of law and, in subsection (7), applies CPC appeal provisions as far as may be. These procedural settings must be distinguished.

Section 365 of the Income-tax Act, 2025 is an appeal-to-High-Court provision, with a substantial-question-of-law requirement and CPC appeal provisions in subsection (9). It is a related framework comparison, not a direct renumbering of section 66(1) or a verified 2025 application of Jaipur Mineral.

These are limited textual or related-framework comparisons. No automatic precedent carry-over or verified case-specific 2025 applicability is claimed.

## LATER TREATMENT

Source checked 2026-10-06. In CIT v. Bansi Dhar & Sons, decided 19 December 1985, the Supreme Court cited Jaipur Mineral at SCR 866 as permitting restoration after failure to file paper-books. In discussing sections 66 of the 1922 Act and 256 of the 1961 Act, it treated restoration as incidental to giving reference advice, while rejecting an inherent power to stay tax recovery in that jurisdiction (SCR 866-870).

Verified the bounded discussion in Bansi Dhar, SCR 863-871, in an HTML judicial reproduction. This later use both confirms procedural relevance and limits the reach of inherent powers; comprehensive subsequent history has not been verified.

## IDENTIFIED SOURCE LINKS

[The Commissioner of Income Tax, Delhi v. Bansi Dhar & Sons \(1985-12-19\), nonofficial HTML judicial reproduction](#)

Bounded judicial discussion carrying SCR pages 863-871, particularly the Jaipur Mineral discussion at 866 and jurisdictional distinction at 870; HTML reproduction only.

[1961 Act section 256\(1\)-\(3\), official 2015 text, especially pre-1 October 1998 limit](#)

1961 Act section 256(1)-(3), official 2015 text, especially pre-1 October 1998 limit

[1961 Act section 260A\(1\),\(7\), official 2024 \(No.2\) text](#)

1961 Act section 260A(1),(7), official 2024 (No.2) text

[2025 Act section 365\(1\)-\(10\), especially \(1\),\(9\), official web-indexed enacted-text passage](#)

2025 Act section 365(1)-(10), especially (1),(9), official web-indexed enacted-text passage; direct PDF open failed, no raw PDF verification

## AI DISCLOSURE

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